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Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 L-03 ONY-00 EURE-00 /016 W
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FM AMEMBASSY COPENHAGEN
TO SECSTATE WASHDC PRIORITY 3847

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E.O. 11652: N/A
TAGS: ACLM
SUBJECT: ACTION AGAINST U.S.G.

REF: A. STL NO. S-14FA-FBO-14 B. STATE 001990 C. COPENHAGEN 0202

1. AS REQUESTED REFTEL B POST HAS REVIEWED LEASE FILE IN QUESTION, WE HAVE ALSO DISCUSSED MATTER WITH EMBASSY'S LEGAL ADVISER WHO IS FAMILIAR WITH CASE AND WITH FSLE TIKLEV WHO IS ONLY EMPLOYEE PRESENTLY AT EMBASSY THAT WAS INVOLVED WITH CASE AS IT DEVELOPED. WE HAVE DELAYED THIS REPLY HOPING TO RECEIVE SPECIFICS OF MRS. RAY'S CALIM WHICH WE UNDERSTOOD WERE BEING POUCHED FROM DEPARTMENT. TO DATE, HOWEVER, MATERIAL HAS NOT ARRIVED.

2. WE HAVE NOT ATTEMPTED TO RECONSTRUCT ENTIRE SEQUENCE OF EVENTS; THE CHRONOLOGICAL HISTORY OF THE DISPUTE IS WELL COVERED IN THE NINETEEN DOCUMENTS POUCHED LAST WEEK. OUR COMMENT INSTEAD WILL FOCUS ON THE FOUR MAIN ISSUES OF MRS. RAY'S CLAIM WHICH WE ASSUME ARE SIMILAR TO THOSE DELINEATED IN THE LETTER OF JULY 10, 1975 FROM ATTORNEY HERBERT V. KELLY TO LAW OFFICES OF ERIK MUNTER (ATTACHMENT Q. IN POUCHED MATERIAL). THESE ISSUES AGAIN ARE: A. CLAIM THAT EMBASSY ILLEGALLY TERMINATED LEASE; B. CLAIM FOR RENT DUE FROM MARCH 31, 1975 WHEN EMBASSY STOPPED PAYMENT UNTIL AUGUST, 1976; C. CLAIM FOR BACK RENT DUE TO ADJUSTMENT CLAUSE; AND D. CLAIMED DAMAGE TO HOUSE AND
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FURNITURE. THESE FOUR POINTS WERE CONSIDERED IN MEETING ON JANUARY 7 WITH EMBASSY OFFICERS DAY AND BUCKLER, EMBASSY'S BUILDINGS AND MAINTENANCE SUPERVISOR SVEND TIKLEV AND WITH JESPER LUNDGREN, MEMBER OF ERIK MUNTER'S LAW FIRM, DANADVOCAT OF COPENHAGEN. CONCLUSIONS REACHED FROM THAT DISCUSSION AND EMBASSY'S ASSESSMENT FOLLOWS:

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3. EMBASSY TERMINATION OF LEASE. FACT: LUNDGREN POINTED OUT THAT DISPUTE COULD HAVE BEEN AVOIDED IF STANDARD DANISH PRACTICE IN SUCH MATTERS HAD BEEN FOLLOWED BY BOTH PARTIES. WHEN LESSEE FOR WHATEVER REASON WISHES TO TERMINATE LEASE PRIOR TO AGREED UPON DATE HE NOTIFIES THE LESSOR IN WRITING OF HIS INTENT. THE LESSEE AGREES TO CONTINUE PAYING THE RENT FOR A REASONABLE PERIOD (USUALLY NTE 90 DAYS) WHILE THE LESSOR SEEKS A NEW TENANT. ONCE THE NEW TENANT MOVES IN THE FORMER LESSEE'S RESPONSIBILITIES FOR RENT PAYMENT CEASE, IF THE LESSOR MAKES NO ATTEMPT TO FIND A NEW TENANT OR IS UNSUCCESSFUL, THEN THE LESSEE HAS THE PREROGATIVE TO FIND ONE. LUNDGREN FURTHER STATED THAT EVEN THOUGH EMBASSY FAILED TO FOLLOW ABOVE PROCEDURE, THE LAND-LORD'S ACCEPTANCE OF THE KEYS TO THE HOUSE ON APRIL 10, 1975 SHOULD HAVE STARTED THE SAME CHAIN OF EVENTS. ACCORDING TO THE DANISH RENT LAWS IN EFFECT AT THE TIME, THE LANDLORD STILL HAS RESPONSIBILITY TO SEEK NEW TENANTS AND THE EMBASSY'S DUTY TO PAY RENT ENDS WHEN THE PROPERTY IS RENTED AGAIN OR SOLD.

4. CLAIM FOR BACK RENT. FACT: THE SUBJECT PROPERTY, ELLESBAEKSVEJ 25, WAS PURCHASED FROM MR. RAY IN THE FALL OF 1975. A COPY OF THEDEED IS ON FILE AT THE DEED OFFICE, CITY HALL, OF THE GENTOFTE KOMMUNE; THE DEED WAS REGISTERED ON OCTOBER 1, 1975. THE PROPERTY WAS SOLD TO MR. OLE HANSEN. IN DENMARK DEED REGISTRATION NORMALLY TAKES SIX WEEKS. OPINION: WE ASSUME MR. HANSEN HAS OCCUPIED THE PROPERTY SINCE MID-AUGUST 1975 WHEN THE INITIAL SALES NEGOTIATIONS WERE PROBABLY CONCLUDED. AT THE VERY MAXIMUM THE U.S. GOVERNMENT SHOULD NOT BE LIABLE FOR ANY RENTAL PAYMENTS BEYOND SEPTEMBER 30, 1975.

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5. CLAIM FOR BACK RENT DUE TO ADJUSTMENT CLAUSE. FACT: A LAND-LORD MUST COMPLY WITH PROVISIONS OF THE DANISH RENTAL CONTROL LAWS IF HE WISHES TO OBTAIN A RENTAL INCREASE IN THE MIDDLE OF THE LEASE PERIOD. THE PROCUREDUE WORKS AS FOLLOWS. THE LANDLORD MUST SHOW EVIDENCE TO THE RENTAL CONTROL BOARD THAT THE COSTS OF MAINTAINING THE PROPERTY HAVE INCREASED, I.E., INCREASED GARBAGE COLLECTION FEES, INCREASED SEWAGE, WATER OR REAL ESTATE TAXES, ETC. THE BOARD DOES NOT APPROVE INCREASED BASED ON THE COST OF LIVING INDEX PER SE. THE RENTAL CONTROL BOARD DOES NOT APPROVE RETROACTIVE INCREASES. FINALLY, THE EMBASSY HAS COMPLIED ASSIDUOUSLY TO ALL ACTIONS OF THE BOARD. OPINION: TO OUR KNOWLEDGE MRS. RAY OR HER AGENT DID NOT COMPLY WITH ANY OF THE ABOVE PROVISIONS. LUNDGREN BELIEVES THERE IS NO LEGAL BASIS FOR HER CLAIM FOR RENTAL ADJUSTMENT.

6. CLAIM FOR DAMAGES TO FURNISHING AND HOUSE. FACT: ACCORDING TO LUNDGREN, IN CASES WHERE TENANT AND LANDLORD HAVE DISPUTE AS TO DAMAGES OF PREMISES AND ARE UNABLE TO REACH A SETTLEMENT, AN INDEPENDENT APPRAISER EVALUATES THE CASE AND MAKES ESTIMATE OF

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DAMAGES. THIS FORMS BASIS FOR MONETARY SETTLEMENT. OPINION:
THIS QUESTION HAS BEEN RENDERED MOOT EXCEPT FOR LIABILITY ACCEPTED
BY EMBASSY FOR PAYMENT OF DANISH KRONER 1,000 FOLLOWING IN-
SPECTION OF PREMISES BY HANSEN, RAY'S FATHER, AND EVERARD TAYLOR,
EMBASSY GENERAL SERVICES OFFICER THAT DATE. BY REPAIRING ALLEGED
DAMAGE TO FURNITURE AND HOUSE, BEFORE REVIEW BY INDEPENDENT
APPARISIER OF PREMISES AND CONTENTS, LESSOR IN EFFECT -DES-
TROYED THE EVIDENCE" NCESSARY TO SUBSTANTIATE THIS CLAIM.
RECOMMENDATIONS.

7. ALTHOUGH PERHAPS NOT LEGALLY LIABLE, WE BELIEVE THE
U.S. GOVERNMENT SHOULD CONSIDER THE CLAIM FOR RENT PAYMENT OF
DANISH KRONER 1,700 PER MONTH FROM APRIL 1, 1975 TO THE DATE
MR. OLE HANSEN PURCHASED THE SUBJECT PROPERTY. THERE IS NO
FOUNDATION WHATSOEVER FOR THE CLAIM OF ADJUSTED BACK RENT. THE
CLAIM FOR DAMAGES TO FURNISHINGS AND HOUSE IS UNSUBSTANTIATED
AND GROSSLY INFLATED.
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8.WE ARE POUCHING TODAY UNTRANSLATED VERSION OF DANISH RENT
CONTROL ACT IN EFFECT AT TIME. SEPTEL FOLLOWS WITH INFO PRO-
IDED BY LUNDGREN ON APPLICABLE DANISH STATUTES, CASES AND
DECISIONS.
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